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OFFICE OF PETITIONS

In re Application of
Larry D. Woodring
Application No. 09/964,390
Filed: September 28, 2001
Attorney Docket No. BS01-379

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 8, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 24, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

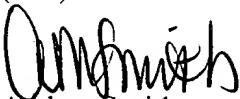
The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded.

The General Power of Attorney by Assignee and Change of Correspondence Address filed June 21, 2004, does not comply with the requirements of 37 CFR 3.73(b). Therefore, it has been acknowledged, but not accepted. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent along with a Statement under 37 CFR 3.73(b) must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

This application is being referred to Technology Center Art Unit 2642 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions

cc: Bambi Faivre Walters
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